

PATENT
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Attorney Docket No. 0275S-000757

Application No.: 09/881,233
Filing Date: June 14, 2001
Applicant: Steven Swaddle
Group Art Unit: 3723
Examiner: Lee D. Wilson
Title: BELT SANDER

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Mail Stop Petition
Director of the United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION FOR WITHDRAWAL OF NOTICE OF ABANDONMENT

Applicant hereby petitions to have the holding of abandonment of the above-identified case withdrawn and for the issuance of a new Office Action for the reasons that their attorney never received the Office Action in view of Delgar, Inc. v. Schuyler, 172 USPQ 513 (D.D.C. 1971).

On June 13, 2003, the United States Patent and Trademark Office mailed a Notice of Abandonment for this application that was received in the Black & Decker Corporate Patent Department on June 16, 2003. The Notice of Abandonment indicates that the Applicant failed to file a response to an Office Action mailed September 24, 2002.

When mail for a patent application is received from the United States Patent and Trademark office, it is delivered from the Black & Decker mail room to the docket clerk

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for the Black & Decker Corporate Patent Department. The docket clerk opens the mail and docket all due dates relative to the mail received from the U.S. Patent Office by entering the pertinent information into a computer database program. The computer database program generates a case history used to track Office Actions and other due dates. The mail is then sorted in the Black & Decker Corporate Patent Department and delivered to the administrative assistant for the attorneys to whom the mail is addressed.

The administrative assistant pulls the file to which the mail relates. The file and associated mail are then forwarded to the attorney responsible for the file.

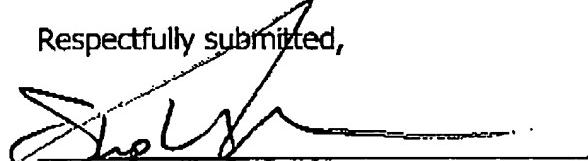
Upon receipt of the Notice of Abandonment in the above case, the Black & Decker attorney responsible for the file, Bruce Shapiro, reviewed the Black & Decker file for this matter and also reviewed the computer database as it related to this matter. Mr. Shapiro determined that the Black & Decker corporate file for this matter did not contain a copy of the Office Action mailed September 24, 2002. Mr. Shapiro further determined that the computer database did not contain any entry indicating that the Office Action had been received. The last entry for the case history of the computer database indicates a computer generated status check dated December 14, 2002. A printout of the case history dated June 30, 2003 is attached at Tab A.

Applicant submits that the criteria described in MPEP §711.02 under the caption "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action" has been satisfied. Applicant respectfully requests that the holding of abandonment be withdrawn and a new Office Action be mailed.

Applicant does not believe that any fee is due in connection with this Petition. However, if for some reason a fee is due, the Commissioner is hereby authorized to charge any required fee Deposit Account No. 02-2548. A duplicate copy of this Petition is enclosed.

We hereby declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

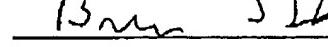
Respectfully submitted,



Stephen T. Olson
Registration No. 36,626
Attorney for Applicant

Harness, Dickey & Pierce, P.L.C.
P.O. Box 828
Bloomfield Hills, MI 48303
(248) 641-1600

Date: Aug 6, 2003


Bruce Shapiro
Registration No. 33,120
Black & Decker
701 East Joppa Road
Towson, MD 21286

Date: Aug 4, 2003